IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3863 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

CHHAGANBHAI DEVJIBHAI - Respondent(s)

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Appearance :
MR KL PANDYA A.G.P. for Petitioner No(s).: 1.
MR TR MISHRA for Respondent No(s).: 1.
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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 11/07/2005

ORAL JUDGMENT

1. The petitioner has challenged the award passed by the Labour Court, Bhavnagar dated 24th September, 1996 passed in Reference [L.C.B.] No. 122 of 1992, whereby the Labour Court has directed the petitioner to reinstate the respondent workman with continuity in service along with 50%

back wages.

2. The short facts of the case are that the respondent workman was working as a Watchman with the petitioner herein. He had been working as such for the last four years. However, without following due procedure of law the services of the respondent workman came to be terminated w.e.f. 12th March, 1988.

2.1. Feeling aggrieved by the said order, the respondent workman raised an industrial dispute which was ultimately referred to the Labour Court, Bhavnagar for adjudication. The Labour Court after appreciating the materials placed before it, partly allowed the Reference with the aforesaid directions. Hence, this petition.

3. Mr. K.L. Pandya learned A.G.P. Submitted that a specific contention was raised in the reply at annexure-C that “Forest” is not an “Industry” and, therefore, the Labour Court cannot entertain the dispute. However, in spite of considering this contention the Labour Court proceeded with the matter and passed the impugned order.

4. The issue whether Forest is an “Industry” or not is squarely covered by the Full Bench decision of this Court in the case of **Gujarat Forest Producers Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.R. p. 1488,** wherein it has been held that having regard to the subjects allotted to it under the rules of business, the entire Forest and Environment Department of the State Government cannot be termed as an “Industry”. However,

considering the activity or undertaking of the said department can be categorized as “Industry” if it satisfies the tripple test formulated in Bangalore Water Supply case and does not fall within expenses culled out therein. Hence, the Labour Court is required to consider the matter afresh in light of the aforesaid decision. Learned counsel for the respondent was unable to contest this position.

5. In the premises aforesaid, the award dated 24th September, 1996 passed in Reference [L.C.B.] No. 122 of 1992, is quashed and set aside. The matter is remanded to the Labour Court, Bhavnagar afresh in light of the Full Bench decision of this Court in the case of Gujarat Forest Producers Gatherers & Forest Workers Union (Supra). Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI,J.]

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